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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,766	09/23/2003	David Jeurgens Bradley	FWM0042	3355
832	7590	04/22/2005	EXAMINER	
BAKER & DANIELS 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			JIMENEZ, MARC QUEMUEL	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/668,766	<b>Applicant(s)</b> BRADLEY, DAVID JEURGENS	
	<b>Examiner</b> Marc Jimenez	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 4,8,12,16 and 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9-11,13-15,17-19 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09232003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Species A, Species II in the reply filed on 3/24/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 4, 8, 12, 16, and 20-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/24/05. It is noted that claim 22 depends on claim 21 which is therefore part of species I.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1 and 2** are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al. (US 4,959,279).

Tanaka et al. teach a method of making a wire comprising the steps of:

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drilling a plurality of apertures in a parent material (col. 1, lines 23-25); filling at least one the aperture with a filament (col. 1, lines 25-26); and repeatedly drawing and thermally-treating the parent material with the filaments embedded therein (col. 1, lines 26-32) to form the wire.

Regarding claim 2, the filaments comprise metallic materials (col. 1, line 26).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-3, 5-7, 9-11, 13-15, 17-19, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong (US 5,034,857) in view of Tanaka et al.

Wong teaches a method of making a wire, comprising the steps of: drilling a plurality of apertures in a parent material (col. 2, lines 55-56), filling at least one aperture with a filament (col. 2, lines 57-58), repeatedly drawing (col. 2, lines 60-66) the parent material with the filaments embedded therein to form the wire, and removing the filament from the parent material to form a cavity within the wire (col. 2, lines 67-68).

Wong teaches the invention cited with the exception of thermally-treating the parent material with the filaments embedded therein.

Tanaka et al. teach thermally-treating the parent material with the filaments embedded therein (col. 1, lines 26-32).

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Wong with thermally-treating the parent material with the filaments embedded therein, in light of the teachings of Tanaka et al., in order to facilitate easier drawing of the wire.

Regarding claims 2, 6, 10, 14, and 18, the filaments comprise metallic materials (col. 2, line 58 of Wong).

Regarding claim 5, Wong teaches removing the filaments from the parent material (col. 2, lines 67-68). This is considered "opening said apertures to the outside circumference of said wire" because the apertures are open to the outside circumference. There is nothing impeding a path from the apertures **12F** to the outside circumference of the parent material **16**. Therefore, Wong is considered to meet the "opening" limitation. This limitation in the claim is very broad and could be read in this manner.

Regarding claims 3, 7, 11, and 15, Wong teaches covering the wire with a biocompatible finish coating (col. 4, lines 6-7).

Regarding claim 13, Wong teaches "removing the softer metal of the billet, oxidizing the filament surface to form adherent, continuous coatings of oxides on the filaments" in col. 4, lines 5-7. This is considered to teach the claimed step of "finishing said wire to open said cavities to the outside circumference of said wire". There is no obstruction between the cavities to the outside circumference of the wire, therefore, the wire is considered to be finished to "open" the cavities to the outside circumference. This limitation in the claim is very broad and could be read in this manner.

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Regarding claims 17 and 23, Wong teaches filling the cavities with a filler material (col. 4, lines 5-7).

Regarding claim 19, Wong teaches covering the wire with a biocompatible finish coating (col. 3, lines 6-13).

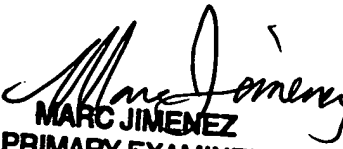
***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
April 8, 2005

  
MARC JIMENEZ  
PRIMARY EXAMINER  
4/8/05